

WT 10-187

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

SOUTH CAROLINA EDUCATIONAL
TELEVISION COMMISSION

WT Docket No.

Educational Broadband Service Stations

WHR465 (B-Group), Conway, SC

WHR609 (G-Group), Lancaster, SC

WHR674 (C-Group), Columbia, SC

WHR933 (C-Group), Walterboro, SC

WHR957 (C-Group), Anderson, SC

WHQ447 (B-Group), White Stone, SC

WND422 (A-Group), Camden, SC

WND451 (A-Group), Winnsboro, SC

WND452 (A-Group), Pickens, SC

WND532 (G-Group), Marion, SC

WND533 (G-Group), Beaufort, SC

WND534 (A-Group), Greenwood, SC

Waiver of Section 27.1206 of the
Commission's Rules

FILED/ACCEPTED

SEP 14 2010

Federal Communications Commission
Office of the Secretary

To: Office of the Secretary

Attn: Chief, Wireless Telecommunications Bureau

**PETITION FOR WAIVER OF SECTION 27.1206
OF THE COMMISSION'S RULES**

South Carolina Educational Television Commission ("SCETV"), by its attorneys and pursuant to Section 1.925 of the Commission's Rules, hereby requests a limited waiver of Section 27.1206 of the Commission's Rules to grant Geographic Service Areas ("GSAs") to Educational Broadband Service ("EBS") Stations WHR465, WHR609, WHR674, WHR933, WHR957, WHQ447, WND422, WND451, WND452, WND532, WND533 and WND534 (collectively, the "Stations").¹ Specifically, SCETV requests that the Stations be granted GSAs

¹ See Table 1 for a list of channels and locations for the Stations.

for those areas that are outside the GSAs of all neighboring co-channel EBS stations.

Grant of a limited waiver in this case would be consistent with the purpose of Section 27.1206 and comport with Commission precedent. In addition, grant of a limited waiver would benefit the public interest by allowing for the delivery of wireless broadband and educational services to areas that would not otherwise be able to receive service.

I. Background

SCETV, a state governmental entity in South Carolina, is the long-time operator of the premier EBS network in the country. SCETV's EBS network consists of over 65 constructed EBS facilities that provide multi-channel coverage of schools and other educational sites across South Carolina. The development of SCETV's EBS network has been strongly supported by the State of South Carolina, which has committed enormous resources to the construction and operation of the network. SCETV and the State of South Carolina are committed to the continued use and implementation of SCETV's EBS network for the delivery of educational services to South Carolina residents.²

As part of the development of its network, SCETV applied for authorization to construct and operate the Stations as studio-to-transmitter ("STL") links, which authorizations were granted by the Commission on a secondary basis. At the time, SCETV intended to utilize the Stations to relay signals from origination points to its traditional EBS stations, which transmitted SCETV's video services over wide service areas across the state.

The Stations were not granted GSAs when the Commission converted EBS licenses to

² In late 2009, after an extensive South Carolina state-managed bidding process, SCETV entered into separate EBS excess capacity lease agreements with Clearwire Spectrum Holdings III and with Digital Bridge Spectrum under which one or the other leasee will use excess capacity of each SCETV station, including the stations subject to this waiver request. Commission approval for these leases has been obtained. See File Nos. 0004035670 and 0004037612, respectively.

geographic licenses in 2005 because the GSAs were based on the existing protected service areas (“PSAs”) of each EBS station.³ Section 27.1206 of the Commission’s Rules expressly states in relevant part that the GSA of an EBS station is based on the “the previous [protected service area] entitled to incumbent licensees prior to January 10, 2005.”⁴ Because the Commission had previously concluded that point-to-point EBS stations authorized on a secondary basis were not entitled to PSA protection – on the basis that such stations have not traditionally been given protection relative to primary stations – the Stations were not entitled to receive GSAs.⁵

SCETV is now in the process of transitioning its EBS facilities from a traditional one-way video model to a model that relies on wireless broadband deployments in conjunction with its wireless operators lessees Clearwire Spectrum Holdings III and Digital Bridge Spectrum Corp. Unless the Stations are able to obtain GSAs, however, there will be significant coverage gaps in SCETV’s and the operators’ networks. Accordingly, SCETV requests waiver of Section 27.1206 of the Commission’s Rules to allow for grant of GSAs to the Stations.

II. Grant of Limited Waiver Would Be Consistent with the Purpose of the Rule and Comport with Commission Precedent

Grant of GSAs to the Stations would be consistent with the purpose of Section 27.1206. The purpose of denying PSAs to secondary STLs such as the Stations was to ensure that such

³ See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket NO. 03-66, 19 FCC Red 14165, 14190-91 ¶ 55 (2004).

⁴ See 47 U.S.C. § 27.1206(a).

⁵ See Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, *Report and Order on Further Reconsideration and Further Notice of Proposed Rulemaking*, MM Docket No. 97-217, 15 FCC Red 14566, 14572 ¶ 24 (2000).

stations would remain subordinate to neighboring EBS stations.⁶ In this case, SCETV requests that the Stations be granted GSAs only for those areas that are outside the GSAs of neighboring co-channel EBS stations.⁷ Thus, grant of limited waiver in this case would maintain the subordinate status of the Stations relative to neighboring co-channel EBS stations.

Grant of a limited waiver would also comport with Commission precedent. In *Florida Atlantic University*, the Commission granted a similar waiver to Florida Atlantic University ("FAU"), which had requested grant of GSAs for its EBS stations that were originally licensed as STLs on a secondary basis.⁸ The Commission concluded that, under those circumstances, allowing FAU's secondary EBS stations to have GSAs would be consistent with the policy

⁶ See *Florida Atlantic University, Order on Further Reconsideration*, DA 08-967 at ¶ 10 (rel. April 25, 2008) ("FAU Case").

⁷ See Maps of Proposed GSAs in Attachment A. The Commission should note that in the case of three of the Stations, the GSAs of particular channels will be different because of differences in neighboring co-channel station GSAs. For WHR609 on the G group at Lancaster, South Carolina, the GSA for Channels G1 and G2 is slightly smaller than the GSA for Channels G3 and G4 because of differing GSAs for stations WND598 on G1 and G2 at Newell, North Carolina, and WND599 on G3 and G4 at Charlotte, North Carolina. For WND422 on the A group at Camden, South Carolina, the GSA for Channels A1 and A2 is slightly smaller than the GSA for Channels A3 and A4 because of the existence of station WBX216 on Channels A1 and A2 only at York, South Carolina. For WND451 on the A group at Winnsboro, South Carolina, the GSA for Channels A1 and A2 is much smaller than the GSA for Channels A3 and A4, again due to the existence of station WBX216 on Channels A1 and A2 at York.

⁸ See FAU Case at ¶ 1. Although FAU's waiver request was supported by consents from the licensees of neighboring EBS stations, who supported the grant of GSAs to FAU's stations so long as their own EBS stations did not lose any portion of their respective GSAs, FAU Case at ¶¶ 7, 9, the existence of consents in that case does not appear to have been a determinative or even material factor, so long as neighboring co-channel EBS stations were in fact protected from encroachment on their GSAs. SCETV notes that, in other cases where the FCC has granted waivers to grant GSAs, in particular GSAs for new EBS stations pursuant to waivers of the freeze on filing of new station applications, it has done so without requiring consents from neighboring stations, so long as those stations' GSAs were protected. See, e.g., *Board of Trustees of Northern Michigan University, Memorandum Opinion and Order*, DA 08-1674 (August 6, 2008) at ¶ 14.

underlying Section 27.1206.⁹

SCETV respectfully submits that grant of GSAs to the Stations in this case, for only those areas that are outside the GSAs of neighboring co-channel EBS stations – and subject to the condition that the GSAs of neighboring EBS stations will not be reduced – would also be consistent with the Commission’s policy goals underlying Section 27.1206.

III. Grant of a Limited Waiver Would Benefit the Public Interest

Grant of a limited waiver of Section 27.1206 of the Commission’s Rules would also benefit the public interest. In *Florida Atlantic University*, the Commission concluded that a limited waiver to allow grant of GSAs to FAU’s secondary EBS stations would be in the public interest because it would allow FAU to serve areas that would not otherwise be able to receive service.¹⁰ In this case, grant of GSAs to the Stations would allow SCETV to eliminate significant coverage gaps in its network of EBS stations – and thus deliver wireless broadband and educational services to areas that would otherwise be left without service. Accordingly, grant of the limited waiver requested by SCETV would also benefit the public interest.

IV. Conclusion

For the reasons stated above, SCETV requests that the Commission grant a limited waiver of Section 27.1206 of the Commission’s Rules to grant GSAs to the Stations. Grant of a limited waiver of Section 27.1206 would ensure that the Stations remain “subordinate” to neighboring co-channel EBS stations while also allowing for the delivery of wireless broadband and educational services to areas that would not otherwise be able to receive service.

⁹ See FAU Case at ¶ 10.

Respectfully Submitted,

SOUTH CAROLINA EDUCATIONAL
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August 6, 2010

¹⁰ See *id* at ¶ 10.

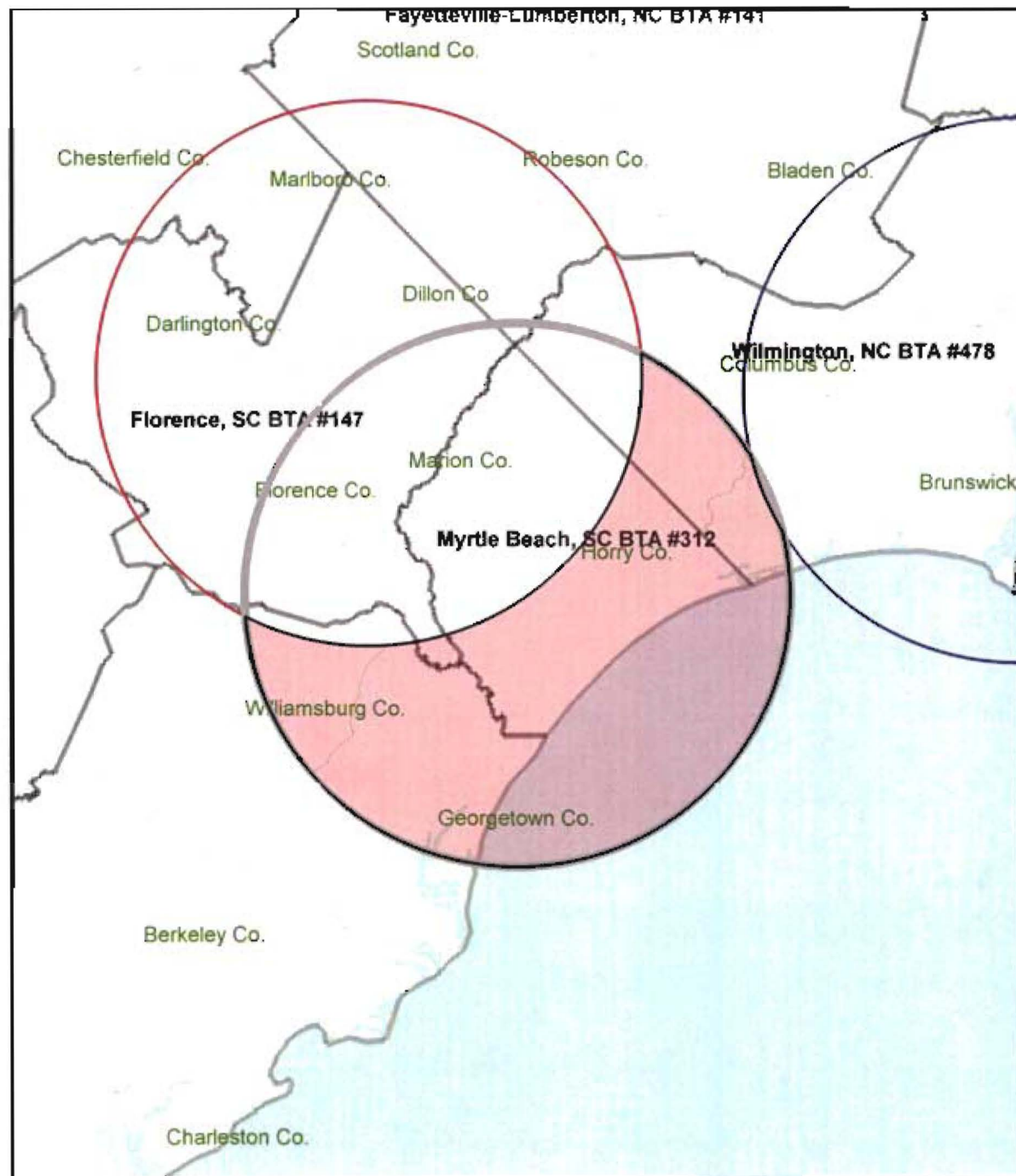
TABLE 1
LIST OF STATIONS, CHANNELS and LOCATIONS

<u>CALL SIGN</u>	<u>CHANNELS</u>	<u>LOCATION</u>
WHR465	B1, B2, B3, B4	Conway, SC
WHR609	G1, G2, G3, G4	Lancaster, SC
WHR674	C1, C2, C3, C4	Columbia, SC
WHR933	C1, C2, C3, C4	Walterboro, SC
WHR957	C1, C2, C3, C4	Anderson, SC
WHQ447	B1, B2, B3, B4	White Stone, SC
WND422	A1, A2, A3, A4	Camden, SC
WND451	A1, A2, A3, A4	Winnsboro, SC
WND452	A1, A2, A3, A4	Pickens, SC
WND532	G1, G2, G3, G4	Marion, SC
WND533	G1, G2, G3, G4	Beaufort, SC
WND534	A1, A2, A3, A4	Greenwood, SC

ATTACHMENT A

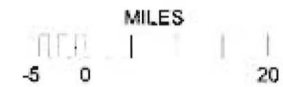
Maps Showing Proposed GSAs for the Stations

(and demonstrating no encroachment on neighboring co-channel station GSAs)



EDX SignalPro™: WHR465 custom GSA map

- WHR465 Conway, SC B1-4 Custom GSA
- WHR465 Conway, SC B1-4 PSA
- WHR485 Marion, SC B1-4 PSA
- WND462 Wilmington, NC B1-4 PSA



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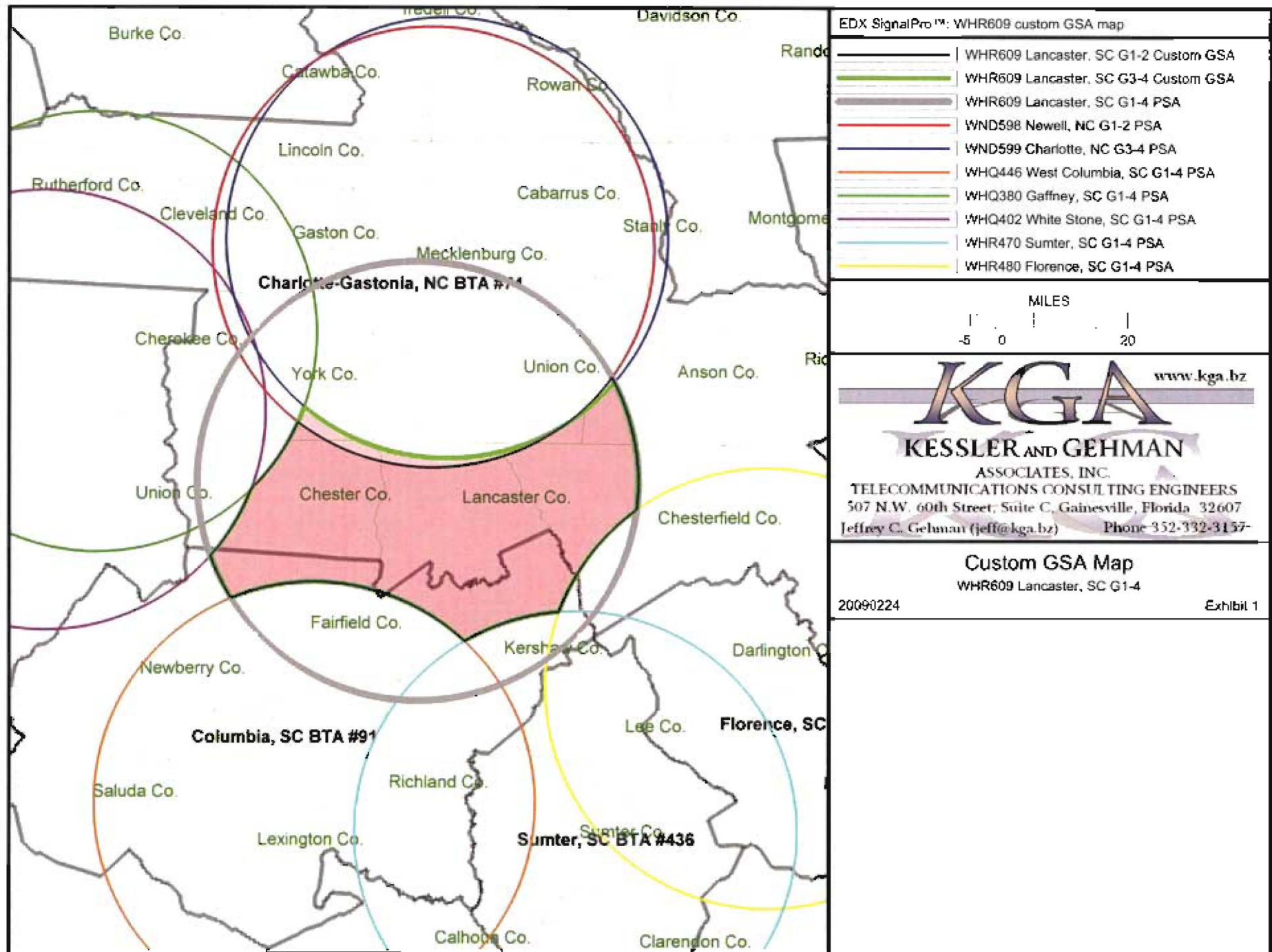
Jeffrey C. Gehman (jeff@kga.bz) Phone 352-332-3157

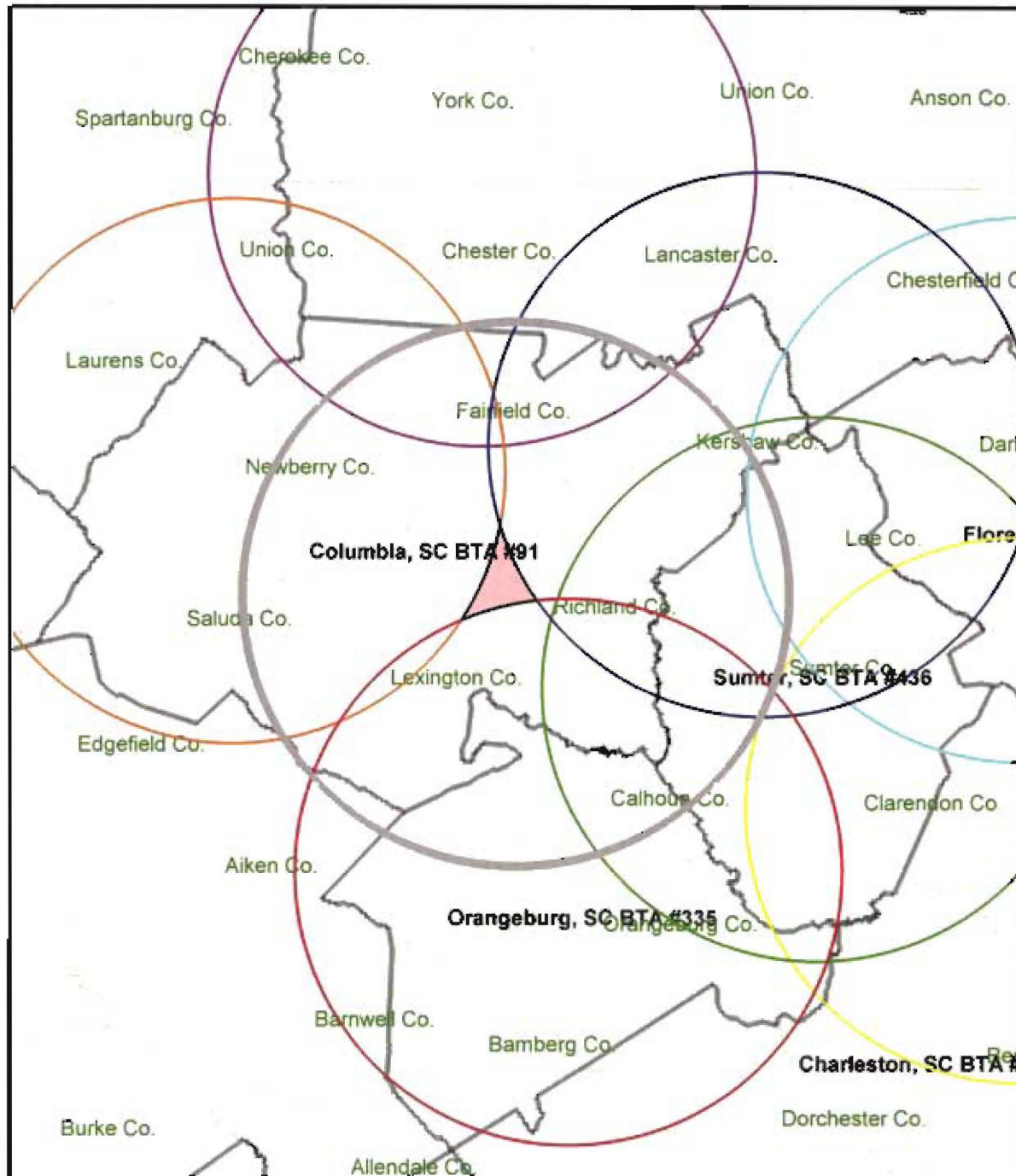
Custom GSA Map

WHR465 Conway, SC B1-4

20090218

Exhibit 1





EDX SignalPro™; WHR674 custom GSA map

- WHR674 Columbia, SC C1-4 PSA
- WHQ405 Orangeburg, SC C1-4 PSA
- WHQ396 Cassatt, SC C1-4 PSA
- WHN711 Newberry, SC C1-4 PSA
- WHM932 Sumter, SC C1-4 PSA
- WHM936 Rock Hill, SC C1-4 PSA
- WHQ304 Florence, SC C1-4 PSA
- WHQ445 Kingstree, SC C1-4 PSA

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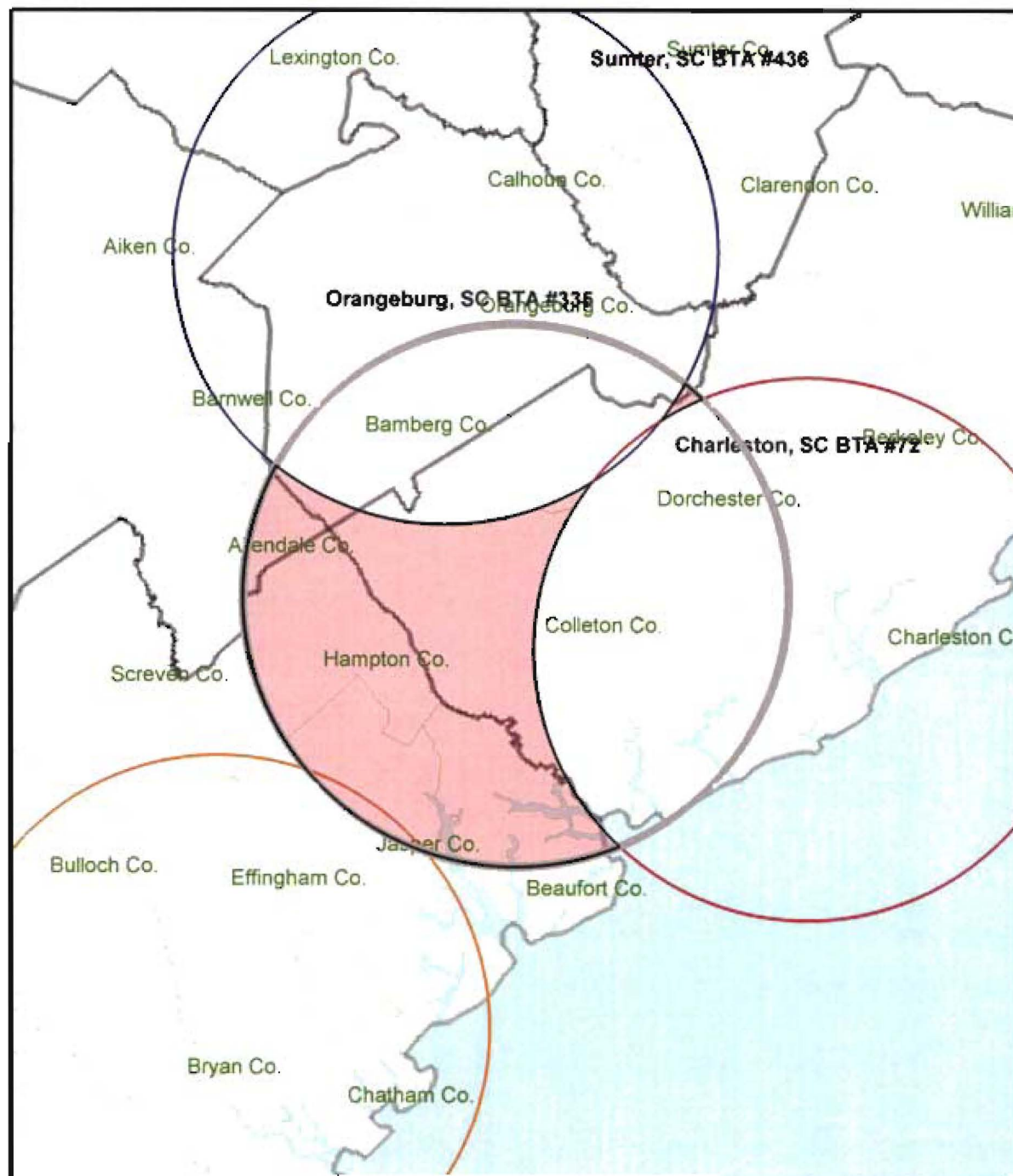
Phone 352-332-3157

Custom GSA Map

WHR674 Columbia, SC C1-4

20090219

Exhibit 1



EDX SignalPro™: WHR933 custom GSA map v2

- WHR933 Waterboro, SC C1-4 Custom GSA
- WHR933 Waterboro, SC C1-4 PSA
- WHM931 Charleston, SC C1-4 PSA
- WHQ405 Orangeburg, SC C1-4 PSA
- WLX698 Bloomingdale, GA C1-4 PSA

Notes

*** GSA EXCLUDES WLX698 (TERMINATED 10/13/2002)



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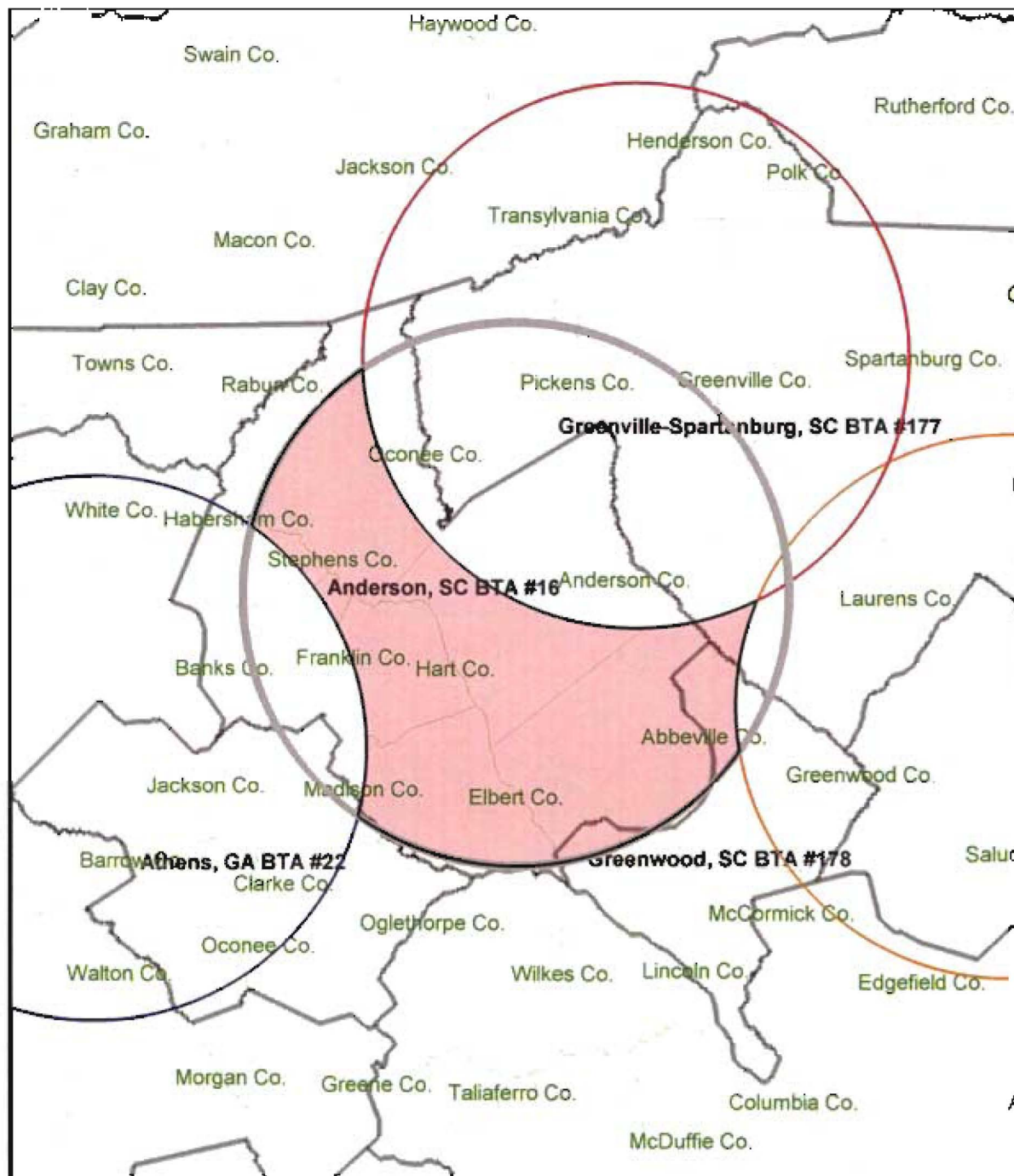
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Custom GSA Map

WHR933 Waterboro, SC C1-4

20090223

Exhibit 1



EDX SignalPro™; WHR957 custom GSA map

- WHR957 Anderson, SC C1-4 Custom GSA
- WHR957 Anderson, SC C1-4 PSA
- WHQ305 Greenville, SC C1-4 PSA
- WND620 Pendergrass, GA C1-4 PSA
- WHN711 Newberry, SC C1-4 PSA



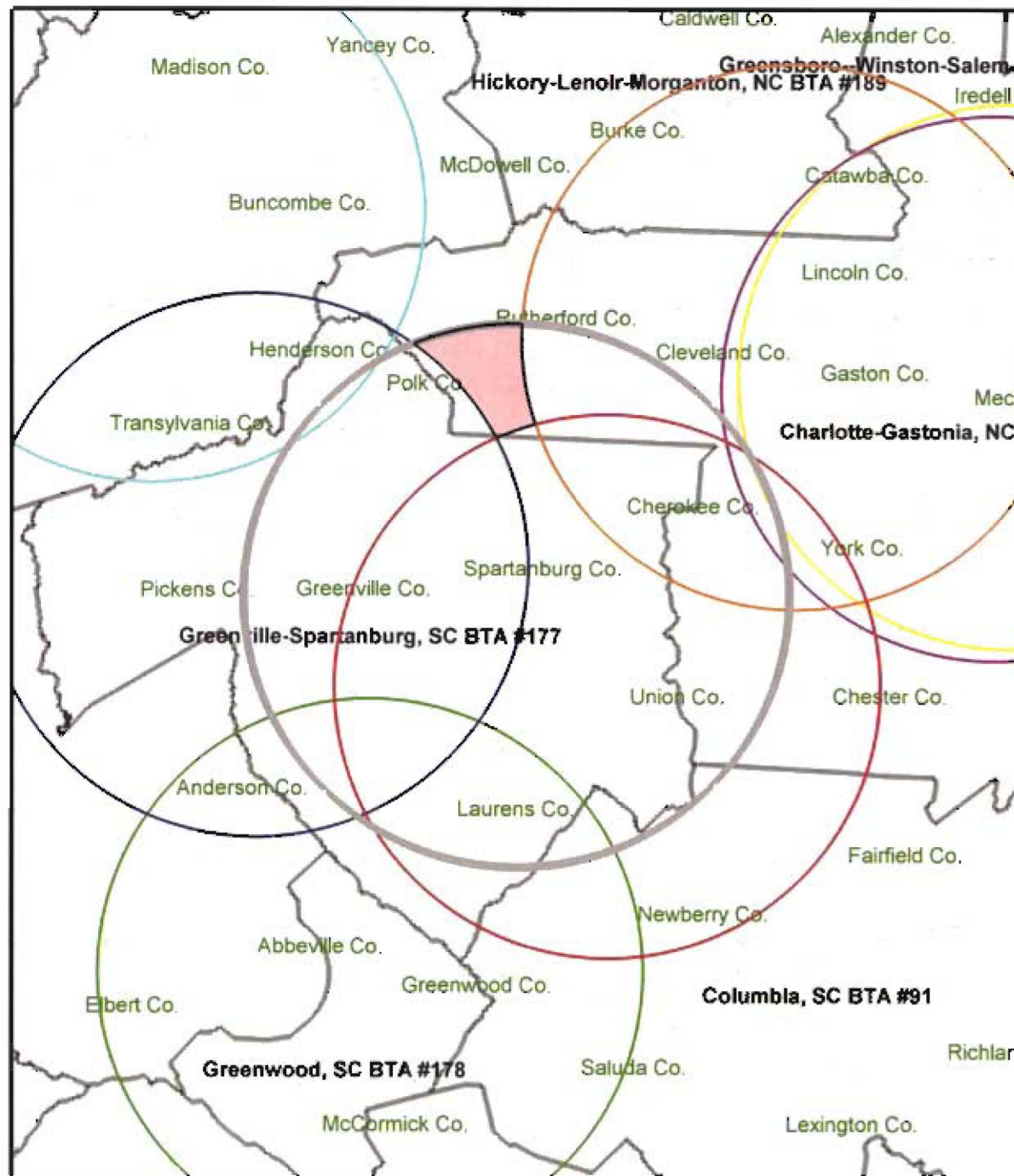
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Custom GSA Map

WHR957 Anderson, SC C1-4

20090219

Exhibit 1



EDX SignalPro™: WHQ447 custom GSA map

- WHQ447 White Stone, SC B1-4 Custom GSA
- WHQ447 White Stone, SC B1-4 PSA
- WLX244 Union, SC B1-4 PSA
- WHN712 Taylors, SC B1-4 PSA
- WND602 Castonia, NC B1-4 PSA
- WHR476 Greenwood, SC B1-4 PSA
- WND613 Newell, NC B3-4 PSA
- WND616 Asheville, NC B1-4 PSA
- WND612 Harrisburg, NC B1-2 PSA

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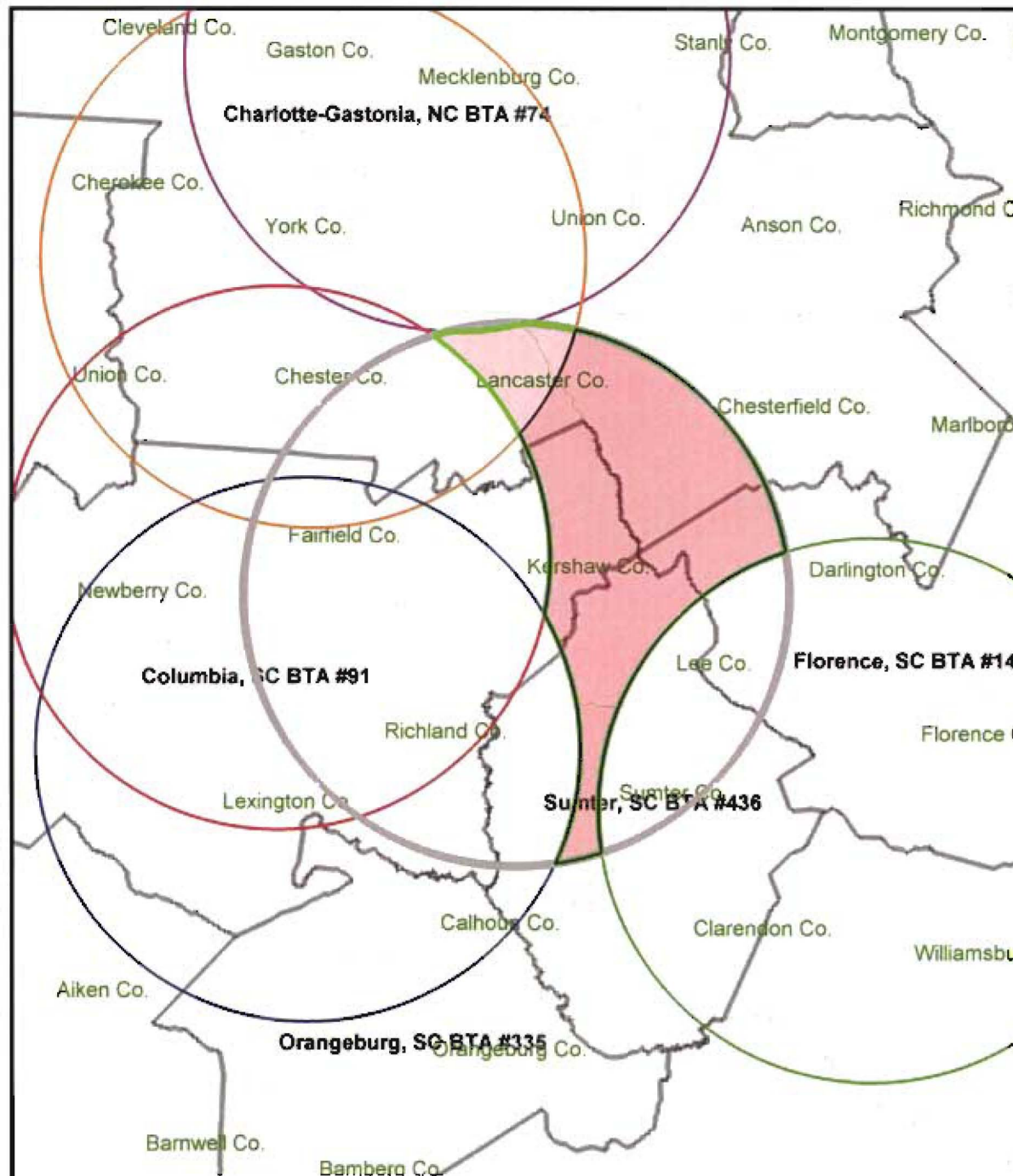
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Custom GSA Map

WHQ447 White Stone, SC B1-4

20090218

Exhibit 1



EDX SignalPro™: WND422 custom GSA map

- WND422 Camden, SC A1-2 Custom GSA
- WND422 Camden, SC A3-4 Custom GSA
- WND422 Camden, SC A1-4 PSA
- WND451 Winnsboro, SC A1-4 PSA
- WHQ258 Columbia, SC A1-4 PSA
- WBX216 York, SC A1-2 PSA
- KGF20 Lake City, SC A1-4 PSA
- WHR535 Charlotte, NC A1-4 PSA



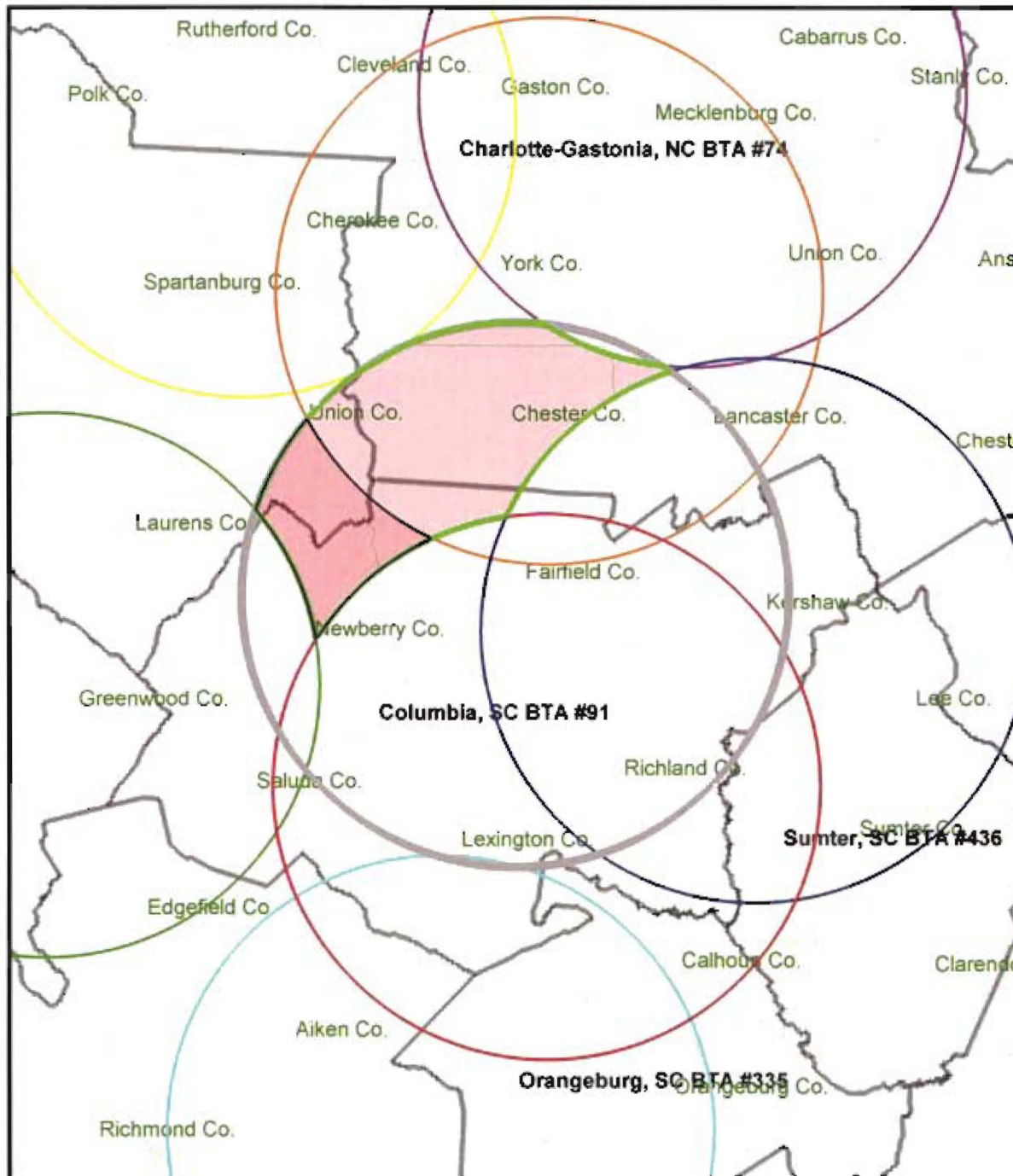
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Custom GSA Map

WND422 Camden, SC A1-4

20090224

Exhibit 1



EDX SignalPro™: WND451 custom GSA map

- WND451 Winnsboro, SC A1-2 Custom GSA
- WND451 Winnsboro, SC A3-4 Custom GSA
- WND451 Winnsboro, SC A1-4 PSA
- WHQ258 Columbia, SC A1-4 PSA
- WND422 Camden, SC A1-4 PSA
- WBX216 York, SC A1-2 PSA
- WND534 Edgefield, SC A1-4 PSA
- WHR535 Charlotte, NC A1-4 PSA
- WHN704 Blackville, SC A1-4 PSA
- WND605 Shelby, NC A1-4 PSA



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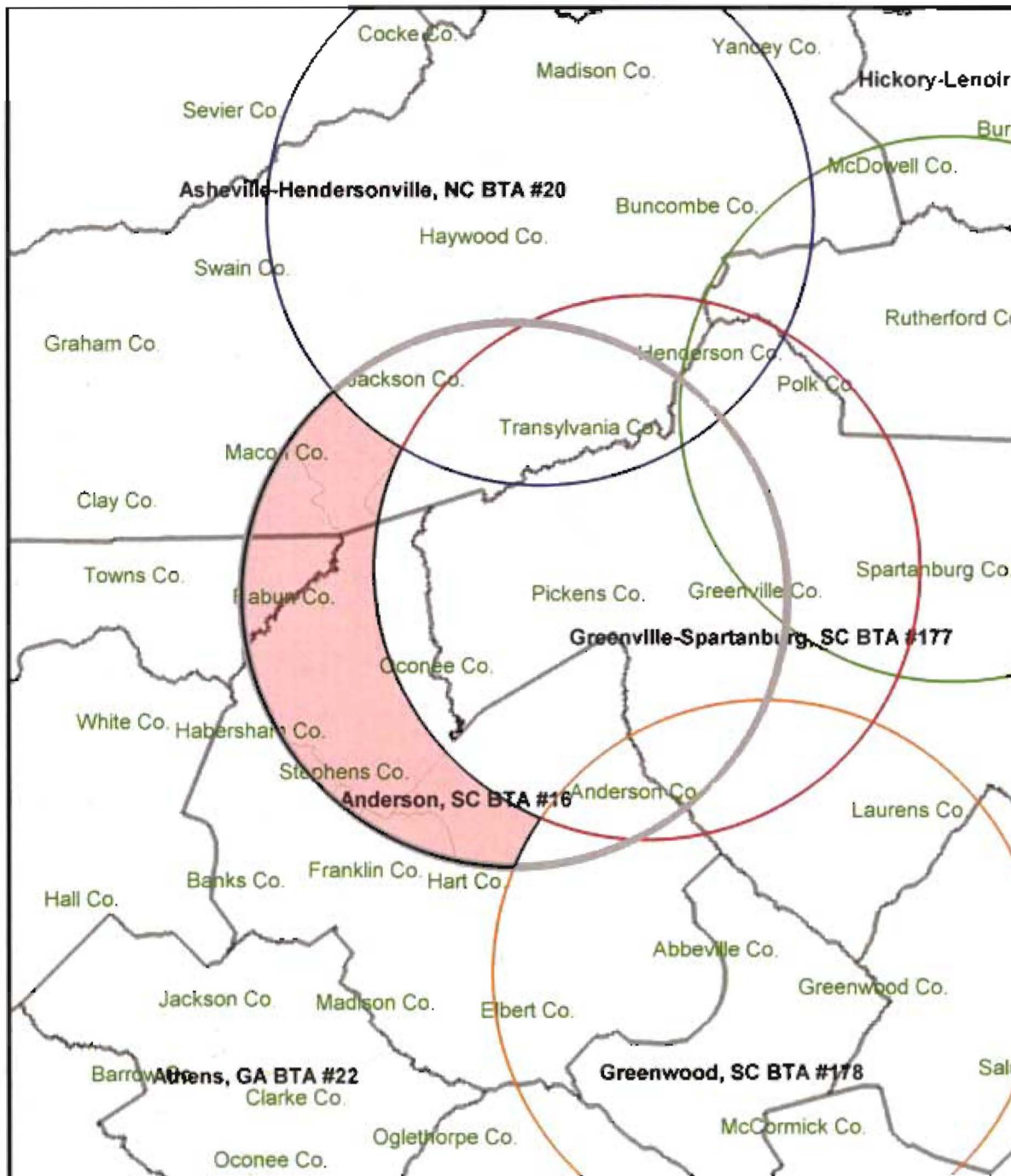
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Custom GSA Map

WND451 Winnsboro, SC A1-4

20090224

Exhibit 1



EDX SignalPro™: WND452 custom GSA map

- WND452 Pickens, SC A1-4 Custom GSA
- WND452 Pickens, SC A1-4 PSA
- WHR481 Greenville, SC A1-4 PSA
- WHR598 Asheville, NC A1-4 PSA
- WND534 Greenwood, SC A1-4 PSA
- WND605 Shelby, NC A1-4 PSA

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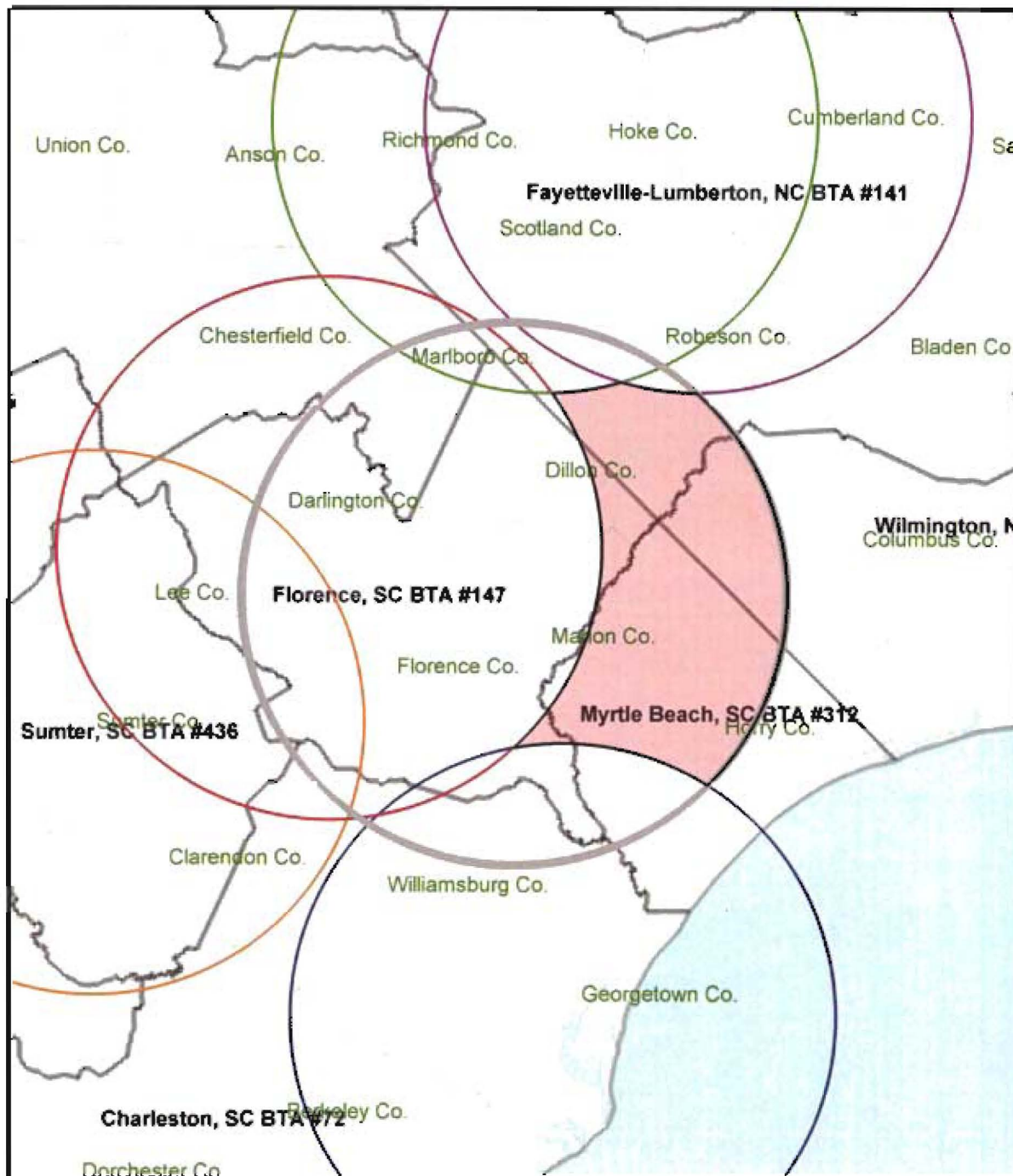
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Custom GSA Map

WND452 Pickens, SC A1-4

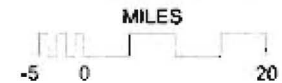
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Exhibit 1



EDX SignalPro™: WND532 custom GSA map

- WND532 Marion, SC G1-4 Custom GSA
- WND532 Marion, SC G1-4 PSA
- WHR480 Florence, SC G1-4 PSA
- WGR836 Georgetown, SC G1-4 PSA
- WHR470 Sumter, SC G1-4 PSA
- WND399 McCain, NC G1-4 PSA
- WND363 Fayetteville, NC G1-4 PSA



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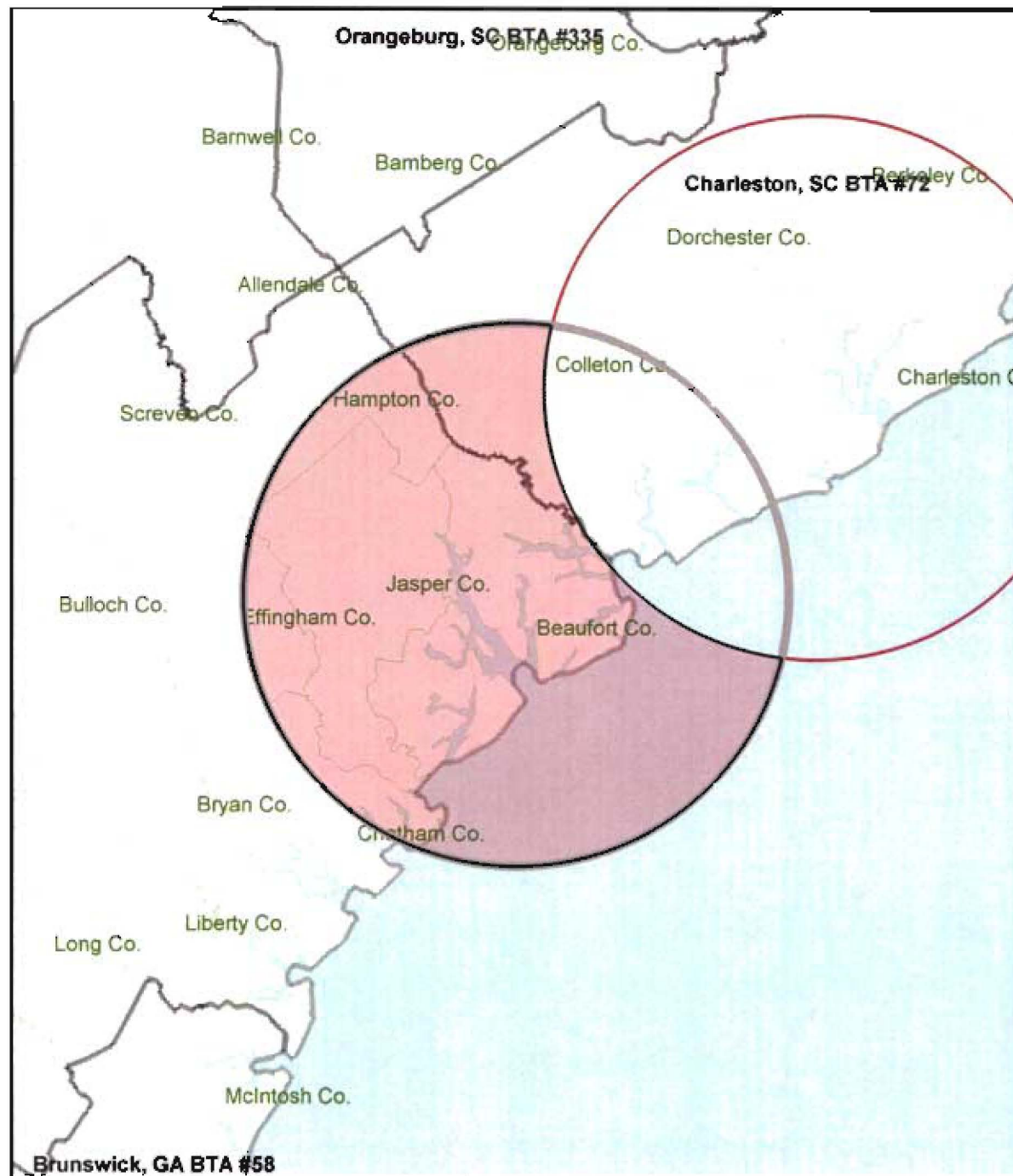
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Custom GSA Map

WND532 Marion, SC G1-4

20090219

Exhibit 1



EDX SignalPro™: WND533 custom GSA map

- WND533 Beaufort, SC G1-4 Custom GSA
- WND533 Beaufort, SC G1-4 PSA
- WHR932 North Charleston, SC G1-4 PSA

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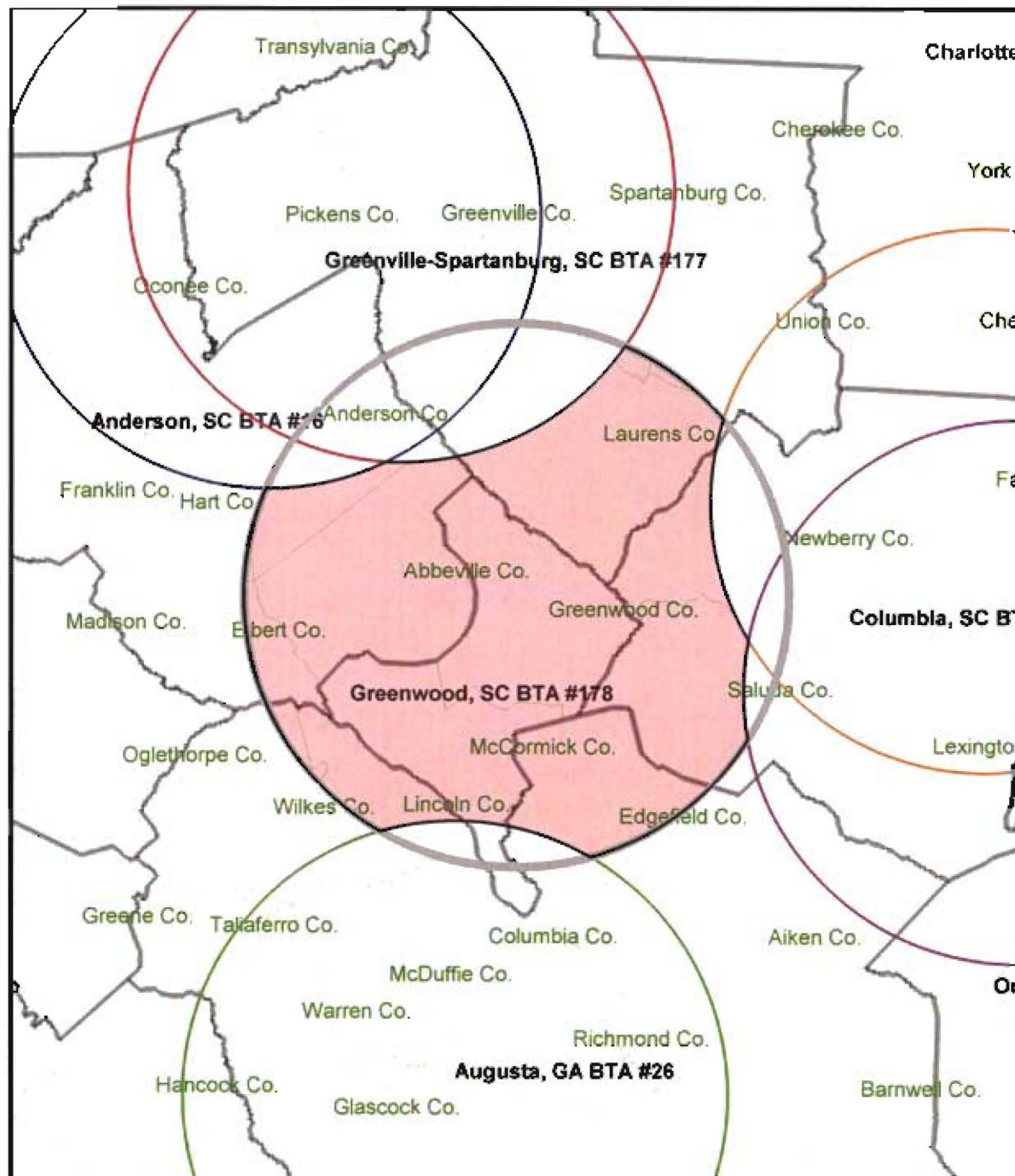
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Custom GSA Map

WND533 Beaufort, SC G1-4

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Exhibit 1



EDX SignalPro™: WND534 custom GSA map	
<ul style="list-style-type: none"> WND534 Greenwood, SC A1-4 Custom GSA WND534 Greenwood, SC A1-4 PSA WHR481 Greenville, SC A1-4 PSA WND452 Pickens, SC A1-4 PSA WND451 Winnsboro, SC A1-4 PSA WLX862 Matthews, GA A1-4 PSA WHQ258 Columbia, SC A1-4 PSA 	
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<p>Custom GSA Map</p> <p>WND534 Greenwood, SC A1-4</p>	
20090219	Exhibit 1